

1 ORGANISATION OF BANKING SUPERVISION IN SPAIN

1.1 Supervisory functions of the Banco de España

Financial supervision in Spain is based on a sectoral model, with three separate supervisors for each of the main financial sectors. The Banco de España has supervisory powers over the solvency and conduct of credit institutions and other financial auxiliaries, which it exercises, either independently or as part of the Single Supervisory Mechanism (SSM) in the euro area, cooperating with other national supervisors in the area of their respective powers.

A distinction may be drawn between the following types of supervisory functions:

- 1 **Microprudential supervision of credit institutions**, focused on monitoring the solvency of credit institutions, aiming to reduce to a minimum the likelihood of crises at individual institutions and the effects of such crises. These powers are exercised within the framework of the SSM in force in the euro area.

The Banco de España has formed part of the SSM from the outset. Since 4 November 2014 the SSM carries out the prudential supervision of the more than 4,200 credit institutions operating in the 19 euro area countries. For the exercise of its functions, the SSM is organised as a system comprising the ECB and the national competent authorities (hereafter, NCAs), among which, the Banco de España. The NCAs play a key part in the operation of the SSM, to which they dedicate a very significant portion of their resources, in addition to their experience in supervisory matters and their superior knowledge of their home country banking systems and institutions.

As a member of the SSM, the Banco de España is present on its governing bodies, the Supervisory Board and the ECB Governing Council. The Banco de España is, therefore, involved in decision-making relating not only to Spanish credit institutions but also to credit institutions from all the euro area countries.

In the framework of the SSM a distinction is drawn between two types of institutions: significant and less significant institutions. This distinction is based on criteria of size, economic significance and cross-border activity that must be reviewed at least once a year (in 2016 the number of significant institutions rose by six in net terms). The ECB is responsible for the direct supervision of significant institutions, while the NCAs are responsible for the direct supervision of less significant institutions. However, even in cases where they are not directly responsible, both the ECB and the relevant NCAs participate in the supervision of all institutions.

JSTs made up of ECB and Banco de España staff conduct ongoing monitoring of Spanish institutions

Ongoing monitoring of significant institutions is performed through Joint Supervisory Teams (JSTs). The JSTs of the Spanish significant institutions are made up of ECB and Banco de España staff, headed by an ECB coordinator who is assisted by a sub-coordinator from the Banco de España. In the case of groups of Spanish institutions with a presence in other SSM countries and of Spanish subsidiaries of groups of institutions of other SSM countries, the

JSTs also include staff from other NCAs and a sub-coordinator from each of the countries concerned.

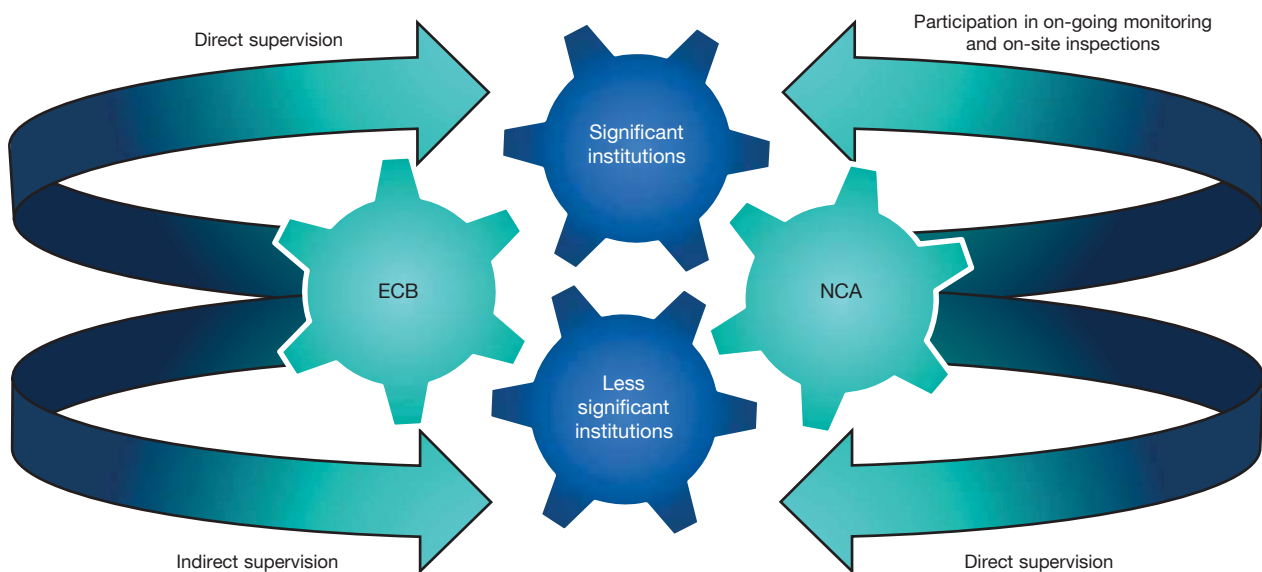
The Banco de España plays an important part in the performance of on-site inspections and reviews of internal models of the Spanish significant institutions, having led approximately 70% of the operations conducted in 2016. Nevertheless, it is important to underline that, within the framework of the SSM, staff from the ECB and from other NCAs also participate in this work, either as team leaders or members, contributing to the development of a common supervisory culture within the SSM that will help standardise the different supervisory practices.

The Banco de España led approximately 70% of the operations conducted in 2016

Also, the Banco de España cooperates with the ECB in the handling of the “common procedures” relating to all institutions included in the scope of the SSM, whether significant or less significant. The common procedures are those relating to the granting and withdrawal of banking licences and the authorisation of qualifying holdings. The Banco de España receives the requests from institutions, performs the first analysis and approves proposals for decisions to be conveyed to the ECB. Subsequently, on the basis of those proposals and other actions it may deem relevant, the ECB makes the final decisions.

Throughout 2016 further moves were made to delimit the distribution of supervisory powers between the ECB and the NCAs. On the indications of the European Commission, the Supervisory Board stipulated that the exercise of supervisory powers granted under national law falls within the direct competence of the ECB if such powers refer to its supervisory tasks and contribute to the performance of its supervisory functions. Specifically it was determined that, from 1 January 2017, the ECB will directly exercise the following powers: authorisation of acquisitions of qualifying holdings in companies that are not credit institutions or in institutions of non-EU countries; approval of mergers and divisions of significant institutions; approval of articles of association of significant institutions; and approval of the appointment of key function holders and of limits on the extension of credit to related persons. NCAs will have powers only over those matters that are not included in the scope of the work of the ECB or do not support its supervisory functions. In those cases, the ECB may exercise its power to provide guidelines to the NCAs in accordance with the SSM Regulation.

- 2 **Exercise of the functions conferred upon the supervisor by the regulations on recovery and resolution of credit institutions:** the Banco de España, as the supervisory authority, is assigned new functions (focused essentially on the pre-resolution phase) and is provided with new tools with which to meet the objectives of safeguarding financial stability and minimising the effects on the system of crises at individual institutions.
- 3 **Microprudential supervision of the Official Credit Institute (ICO, by its Spanish acronym) and other institutions other than credit institutions that provide services or perform activities related to the financial sector, within the scope envisaged in Spanish legislation:** specialised lending institutions, mutual

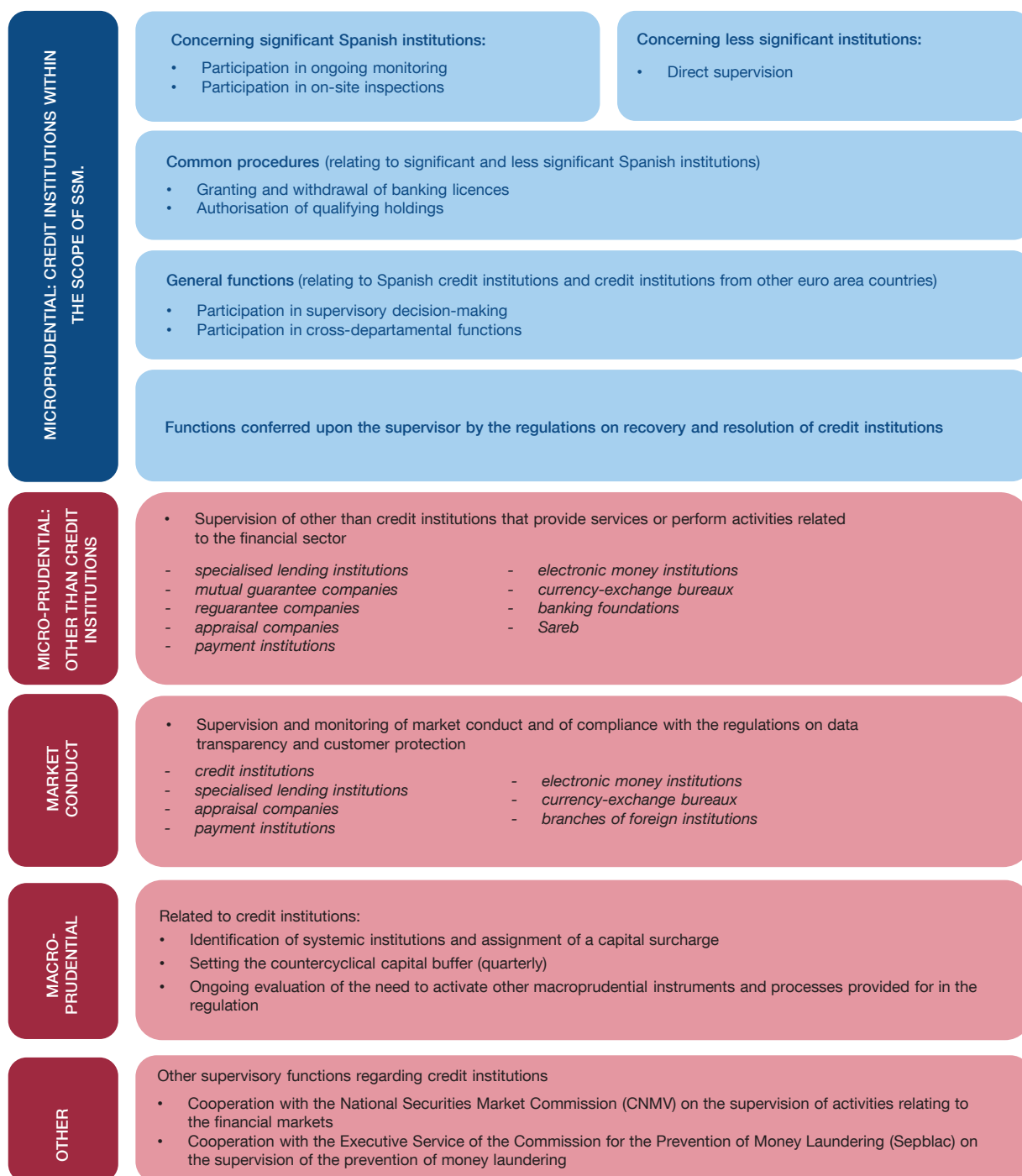


SOURCE: Banco de España.

guarantee companies, reguarantee companies, appraisal companies, payment institutions, electronic money institutions, currency-exchange bureaux, banking foundations and the asset management company for assets arising from bank restructuring (hereafter, Sareb).

- 4 **Macroprudential supervision**, focused on safeguarding the stability of the financial system overall. As part of this function, the Banco de España makes use of the macroprudential instruments provided for in the European legislation on capital requirements for the banking sector (established in the Capital Requirements Regulation (CRR) and the Fourth Capital Requirements Directive (CRD IV)) and the implementing Spanish legislation.
- 5 **Supervision and monitoring of market conduct** and of compliance with the regulations on data transparency and customer protection by the institutions registered in the Banco de España's official registers of institutions for which there are specific regulations on transparency and customer protection. These include, in their various forms, credit institutions, specialised lending institutions, payment institutions, electronic money institutions, appraisal companies, branches of foreign institutions and owners of currency-exchange bureaux.

It is important to note that, in addition to the institutions that operate in Spain through a permanent establishment, there are others that pursue their business under the freedom to provide services which, in accordance with Article 12(2) of Law 10/2014 of 26 June 2014 on the regulation, supervision and solvency of credit institutions, shall "observe, in the pursuit of their business in Spain, the regulatory and disciplinary provisions for credit institutions which, where appropriate, are applicable and whatsoever other



SOURCE: Banco de España.

provisions are issued for reasons of general interest”. In particular, these institutions are expressly included under the subjective scope of some of the precepts of Ministerial Order ECO/734/2004 of 11 March 2004 on customer care services and departments and the financial services ombudsman, and of Ministerial Order ECC/2316/2015 of 4 November 2015 on obligations relating to information on and classification of financial products. Accordingly, the Banco de España also exercises certain supervisory functions over these institutions.

6 Other supervisory functions, including in particular:

- Cooperation with the Executive Service of the Commission for the Prevention of Money Laundering (Sepblac) in the supervision of the prevention of money laundering.¹
- Cooperation with the National Securities Market Commission (CNMV) in the supervision of activities related to the financial markets.

Schema 1.2 summarises the Banco de España's various supervisory functions.

1.2 Organisation of banking supervision at the Banco de España

Schema 1.3 outlines how supervisory functions are distributed between the Banco de España's different directorates general and departments.

Regarding microprudential supervision, the entry into force of the SSM entailed a highly significant change in the European supervisory model. In view of this new scenario, the Banco de España adapted its organisational structure so as to participate in the most effective way possible in the SSM.

The Banco de España's organisational structure is tailored to the new microprudential supervisory framework

The present structure separates ongoing supervision of the significant institutions, undertaken by Supervision Departments I and II, from the on-site inspections and reviews of internal models conducted by divisions specialising in that work located in Supervision Department IV.

Supervision Department III performs ongoing supervision and on-site inspections of the less significant institutions.

1.3 Staff

The launch of the SSM had a significant impact on Directorate General Banking Supervision (DGBS) staff, as around 80 staff members who belonged to the DGBS are now working at the ECB within the SSM structure. This has posed a major challenge in terms of human resources, heightened by the necessary adaptation to new common procedures and methodologies, the need to work in English and the significant regulatory changes in the banking sector in recent years.

The Banco de España has an intensive on-the-job staff training programme

In this setting, the DGBS has followed a dual strategy. First, with a view to maintaining the high professional profile of its staff, numerous training activities are conducted, adapted to the new supervisory situation, both at the national and international level. Thus, the Banco de España offers DGBS staff an extensive annual internal training programme, aiming to disseminate and refresh the technical knowledge essential for supervisory work. Moreover, in cooperation with various international and European supervisory bodies and agencies (ECB, Basel Committee on Banking Supervision, EBA, etc.), the Banco de España also offers its staff a range of courses and workshops abroad, to achieve optimum completion and reinforcement of their training. Lastly, significant language training activities are conducted to maintain and, where necessary, improve the DGBS staff's command of English, which is essential in the new European supervisory framework.

¹ In Spain, the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (Sepblac) is the authority responsible for the supervision and inspection of compliance with prevention of money laundering obligations and for adoption of the measures necessary in the event of non-compliance. The Banco de España cooperates in the operations relating to these matters, in accordance with the cooperation regime established in Law 10/2010 of 28 April 2010 and in the agreement signed with Sepblac in 2013.

DIRECTORATE GENERAL BANKING SUPERVISION	Supervision Department I	– Ongoing or day-to-day supervision of the four major significant institutions through the JSTs.
	Supervision Department II	– Ongoing or day-to-day supervision of the other significant institutions (10) through the JSTs.
	Supervision Department III	– Ongoing supervision and on-site inspections of the: <ul style="list-style-type: none"> • Less significant institutions under the SSM • Significant Spanish institutions belonging to groups with non-Spanish parents • Other entities outside of the scope of the SSM
	Supervision Department IV	– Specialised or horizontal tasks that affect all institutions – On-site inspections of significant institutions and reviews of the internal capital models of Spanish institutions
	Regulation and Supervisory Policy Department	– Definition of supervisory and regulatory policies – Implementation and interpretation of banking accounting legislation and prudential legislation – Coordination of the Banco de España's participation in the European Banking Authority (EBA) and cooperation with Spanish and international bodies and forums
	SSM Coordination Service	– Supporting the participation of the Banco de España's representative on the SSM Supervisory Board – Internal organisation, distribution and monitoring of the information received at this level regarding the SSM
	Supervisory Planning Service	– Preparation and monitoring of the supervision framework and annual plan – Supervisory methodology and Pillar 2 – Quality control of supervisory actions – Hiring and training of DGS employees
	Centralised Lending Analysis Division	– Coordinated implantation of the new provisioning model contained in IFRS 9 and modifications introduced by Circular 4/2016
	Information and Analysis Group	– Computer processing of the financial information received from institutions – Specific analyses of the developments in the Spanish financial system and its main risks
GENERAL SECRETARIAT	Suitability Assessment and Individuals Register Division	– Assessing the compliance with the suitability requirements of board members, managing directors and similar officers – Maintaining the Senior Officer Register
	Authorisations and Institutions Register Division	– Participating in the granting and withdrawal of the authorisation of institutions – Maintaining the Institutions Register
	Division for Sanctioning Proceedings	– Instructing disciplinary proceedings – Collaboration with Jurisdictional Bodies
	Market Conduct and Claims Department	– Supervisory powers over the issue of banking transparency and the protection of institutions' customers – Definition of supervisory and regulatory policies related to market conduct
DIRECTORATE GENERAL FINANCIAL STABILITY AND RESOLUTION	Financial Stability Department	– Assessment of financial stability and drawing up proposals for macroprudential policies – Coordination with the European Systemic Risk Board (ESRB) and the Financial Stability Committee (FSC) of the ECB – Coordination with other international organisations, such as the BCBS and the FSB
	Financial Reporting and CCR Department	– Defines, receives, validates and acts as the custodian of the information submitted periodically to the Banco de España by the institutions subject to supervision by it or by the ECB – Management of the Central Credit Registry
	Resolution Department	– Functions related to Resolution

SOURCE: Banco de España.

Second, in recent years the number of positions advertised each year within the DGBS has risen significantly. Until the full complement of permanent staff is achieved, temporary staff are being hired. However, these measures are not yet reflected in a net increase in staff numbers in the DGBS.

BANKING SUPERVISION, FINANCIAL STABILITY AND RESOLUTION, AND MARKET CONDUCT AND CLAIMS DEPARTMENT STAFF IN 2016

TABLE 1.1

Number	Directorate General Banking Supervision (a)	Directorate General Financial Stability and Resolution	Market Conduct and Claims Department (b)	Deputy General Secretariat (c)
Directors and other managers	49	27	9	4
Bank examiners/Inspection auditors	243	9	6	
Senior analysts/lawyers/experts	26	39	23	6
IT auditors	46		2	
Junior analysts	69	73	38	13
Administrative staff	49	22	12	8
TOTAL	482	170	90	31

SOURCE: Banco de España.

- a** The staff of the Directorate General Banking Supervision have the following functions:
- 163 persons have functions relating to the ongoing supervision of significant institutions conducted through joint supervisory teams set up by the SSM.
 - 19 persons have functions relating to the ongoing supervision of less significant institutions supervised directly by the Banco de España and indirectly by the ECB.
 - 20 persons have functions relating to institutions whose supervision has not been taken on by the ECB.
 - 103 persons have functions relating to the performance of on-site inspections or the review of models.
 - 116 persons have cross-departmental functions.
 - 49 persons have administrative functions.
 - 2 persons are appointed as General Director and Deputy General Director.
 - 10 persons have other functions.
- b** Of the total staff in the Market Conduct and Claims Department, 33 employees (Director and 32 assigned to Conduct Oversight Division) have direct functions related to supervision.
- c** Only staff of the Suitability and Registration of Senior Officers, and Authorisations and Registration of institutions are included.

A further challenge for the Banco de España has been the need to provide the necessary human resources to assume the supervision of market conduct, since these powers were assigned to the General Secretariat in October 2014.